

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL DOCKET NO.: 3:09CV25-V**

**EDWARD H. BYERS,** )  
                  **Plaintiff,** )  
                                  ) )  
                  **v.** )  
                                  ) )  
**JANET NAPOLITANO, Secretary,** )  
**United States Department of** )  
**Homeland Security,<sup>1</sup>** )  
                  **Defendant.** )  
\_\_\_\_\_) )

**ORDER**

**THIS MATTER** is before the court on Plaintiff’s Motion to Waive Mediation, filed *pro se* on February 12, 2010. (Document #28)

In support of his motion, Plaintiff Byers asserts that he is a retiree living on “a limited income” and that the costs associated with mediation will impose a hardship on him and his family. Byers also suggests that engaging in mediation is futile.

Under our Local Rules, some form of alternative dispute resolution is mandatory in essentially every civil case. *See* L.Civ.R. 16.2(A). Moreover, Byers simply cannot (and likely does not) appreciate the potential costs, financial and otherwise, of proceeding to trial in the event mediation is unsuccessful. In short, the Court is not persuaded that Plaintiff’s cause of action is not suitable for mediation. Instead, it is the Court’s view that, regardless of the


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<sup>1</sup> The action was initially brought against Secretary Michael Chertoff, who has since been replaced by Janet Napolitano as the Secretary of the United States Department of Homeland Security.

outcome, participation in mediation will benefit the parties in their efforts to resolve the factual and legal issues presented.

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Waive Mediation is **DENIED**.

Signed: September 30, 2010

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees  
United States District Judge

